

# Local Issues Task Force

---

Monday, July 23, 2007  
9:00 a.m.  
Room W110 House Building

---

## ***ENCLOSURES***

## ***Page***

Notice of Meeting. . . . .	1
Agenda. . . . .	3
Minutes of June 19, 2007 meeting. . . . .	5

## **Forms of Municipal Government**

Review of Guiding Principles Adopted by the Task Force ( <i>Agenda Item #2A</i> )	
Adopted Guiding Principles. . . . .	9
Proposal from Task Force Chairs ( <i>Agenda Item #2B</i> )	
Outline of an Option for Clarifying Statutory Provisions Relating to the Forms of Municipal Government. . . . .	11
Appointment and Removal of Certain Officials ( <i>Agenda Item #2C</i> )	
H.B. 457, "Municipal Amendments," 2007 General Session. . . . .	13

## **School Building Finance**

Current Capital Outlay Foundation Program ( <i>Agenda Item #4A</i> ) and Current Enrollment Growth Program ( <i>Agenda Item #4B</i> )	
Title 53A, Chapter 21, Public Education Capital Outlay Act. . . . .	19
USOE website regarding Foundation and Enrollment Growth Programs. . . . .	23
Capital Outlay Foundation and Enrollment Growth Program - FY 2006-07. . . . .	25
Discussion of Policy Questions ( <i>Agenda Item #4C</i> )	
List of Policy Questions. . . . .	27



## 2007 MEETING DATES

### Local Issues Task Force

<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Place</u></b>
Thursday, May 3	9:00 a.m. - Noon	Room W125, West Office Bldg
Wednesday, May 23	9:00 a.m. - 3:00 p.m.	Room W110, West Office Bldg
Tuesday, June 19	9:00 a.m. - 3:00 p.m.	Room W110, West Office Bldg
Monday, July 23	9:00 a.m. - 3:00 p.m.	Room W110, West Office Bldg
Wednesday, August 22 (Tentative)		
To Be Determined As Needed		
To Be Determined As Needed		
To Be Determined As Needed		
To Be Determined As Needed		

# OFFICE OF LEGISLATIVE RESEARCH & GENERAL COUNSEL



**MICHAEL E. CHRISTENSEN**  
*Director*

436 State Capitol • PO Box 140121  
Salt Lake City, Utah 84114-0121

(801) 538-1032 • fax 538-1712  
<http://www.le.state.ut.us>

**M. GAY TAYLOR**  
*General Counsel*

## NOTICE OF MEETING

### LOCAL ISSUES TASK FORCE

The task force chairs have scheduled the following meeting:

DATE: **Monday, July 23, 2007**  
TIME: **9:00 a.m. - 3:00 p.m.**  
PLACE: **Room W110 House Building**

If task force members would like to be excused from the meeting, they may call Joseph Wade or Wendy Bangerter at 538-1032.

### TASK FORCE MEMBERS

Sen. Carlene M. Walker, Co-Chair  
Rep. Aaron Tilton, Co-Chair

Sen. Scott D. McCoy  
Sen. Howard A. Stephenson  
Rep. John Dougall

Rep. Janice M. Fisher  
Rep. Julie Fisher  
Rep. Gregory H. Hughes

Rep. Todd E. Kiser  
Rep. Karen W. Morgan

### STAFF

Joseph Wade/Phil Dean  
Policy Analyst

Robert H. Rees/Angela D. Oakes  
Associate General Counsel

Wendy L. Bangerter  
Legislative Secretary

*Prepared July 19, 2007*

**LOCAL ISSUES TASK FORCE  
2007 MEMBERSHIP LIST**

Carlene M. Walker (Co-Chair)	4085 E Prospector Dr Salt Lake City, Ut 84121	(O) 801 733-4599 (F) 801 942-4085	cwalker@utahsenate.org
---------------------------------	--	--------------------------------------	------------------------

Rep. Aaron Tilton (Co-Chair)	2594 E 700 S Springville, Ut 84663	(H) 801 491-2051 (C) 802 361-5881	atilton@utah.gov
---------------------------------	---------------------------------------	--------------------------------------	------------------

---

Sen. Scott D. McCoy	560 E 700 S Salt Lake City, Ut 84102	(H) 801 359-2544 (O) 801 533-8383	mccoys@lowrey.com
---------------------	---	--------------------------------------	-------------------

Sen. Howard A. Stephenson	1038 E 13590 S Draper, Ut 84020	(H) 576-1022 (O) 801 972-8814	hstephenson@utahsenate.org
---------------------------	------------------------------------	----------------------------------	----------------------------

Rep. John Dougall	Po box 771 American Fork Ut 84003	(H) 801 492-1365 (O) 801 492-1365	jdougall@utah.gov
-------------------	--------------------------------------	--------------------------------------	-------------------

Rep. Janice M. Fisher	6411 W 3785 S West Valley City, Ut 84128	(H) 801 250-2698	janicefisher@utah.gov
-----------------------	---	------------------	-----------------------

Rep. Julie Fisher	865 S Orchard Ct Fruit Heights, Ut 84037	(H) 801 544-2229	jfisher@utah.gov
-------------------	---	------------------	------------------

Rep. Gregory H. Hughes	14057 S New Saddle Rd Draper, Ut 84020	(H) 801 572-5305 (O) 801 548-2922	greghughes@utah.gov
------------------------	---	--------------------------------------	---------------------

Rep. Todd E. Kiser	10702 S 540 E Sandy, Ut 84070	(H) 801 571 0179 (O) 801 266-6800	toddkiser@utah.gov
--------------------	----------------------------------	--------------------------------------	--------------------

Rep. Karen W. Morgan	8378 Austrian Way Salt Lake City, Ut 84121	(H) 801 943-0067 (O) 801 538-1029 (F) 801 943-9614	karenmorgan@utah.gov
----------------------	---	--	----------------------

**COMMITTEE STAFF**

Joseph Wade, Policy Analyst (jwade@utah.gov)  
 Phil Dean, Policy Analyst (phildean@utah.gov)  
 Robert H. Rees, Associate General Counsel (rrees@utah.gov)  
 Angie Oakes, Associate General Counsel (aoakes@utah.gov)  
 Wendy L. Bangerter, Committee Secretary  
 (wbangerter@utah.gov)

Office of Legislative Research and General Counsel  
 Utah State Capitol Complex  
 House Building, Suite W210  
 PO Box 145210  
 Salt Lake City, UT 84114-5210  
 (O) 801-538-1032 (F) 801- 538-1712

# **AGENDA**

## **LOCAL ISSUES TASK FORCE**

### **UTAH LEGISLATURE**

Approximate  
Time Frame

Monday, July 23, 2007 • 9:00 a.m. • Room W110 House Building

9:00    **1. Committee Business**

- Call to order - Representative Aaron Tilton, Co-chair
- Approval of minutes of June 19, 2007 meeting

**2. Forms of Municipal Government**

A.    Review of Guiding Principles Adopted by the Task Force

B.    Proposal from the Task Force Chairs

- Explanation of proposal: Robert H. Rees, Associate General Counsel
- Task force questions
- Public comment on proposal
- Task force discussion

C.    Appointment and Removal of Certain Officials

*The Political Subdivisions Interim Committee discussed this issue in its May meeting and referred the issue to this task force. The study question is whether to require the advice and consent of the municipal council or legislative body with respect to the removal of department heads, officers and employees, commissions, boards, committees, and planning commission members (H.B. 457). (Master Study Item #163)*

- Explanation: Rep. Christopher N. Herrod, study sponsor
- Task force questions
- Public comment on proposal
- Task force discussion

**3. Break for Lunch**

*The task force will break for lunch and resume at approximately 12:30 p.m. This schedule may be accelerated if the morning portion of the meeting is shorter than expected.*

12:30    **4. School Building Finance**

- A.    Current Capital Outlay Foundation Program
  - Explain current program: Joseph Wade, Policy Analyst
  - Projections if additional money enhanced this program: USOE
  - Task force questions
- B.    Current Enrollment Growth Program
  - Explain current program: Joseph Wade, Policy Analyst
  - Projections if additional money enhanced this program: USOE
  - Task force questions
- C.    Discussion of Policy Questions
  - Task force discussion and voting
- D.    Countywide Equalization Proposal
  - Explain countywide proposal: Brian Allen
  - Task force questions
  - Public comment on proposal
  - Task force discussion
- E.    Local Replacement Equalization Proposal
  - Explain countywide proposal: Rep. John Dougall
  - Task force questions
  - Public comment on proposal
  - Task force discussion
- F.    Statewide Equalization Proposal
  - Explain differences from last meeting: Sen. Howard Stephenson
  - Task force questions
  - Public comment on proposal
  - Task force discussion

3:00    **5. Other Items / Adjourn**

**MINUTES OF THE  
LOCAL ISSUES TASK FORCE**

Tuesday, June 19, 2007 – 9:00 a.m. – Room W110 House Building

**Members Present:**

Sen. Carlene M. Walker, Co-chair  
Rep. Aaron Tilton, Co-chair  
Sen. Scott D. McCoy  
Sen. Howard A. Stephenson  
Rep. John Dougall  
Rep. Janice M. Fisher  
Rep. Julie Fisher  
Rep. Gregory H. Hughes  
Rep. Todd E. Kiser  
Rep. Karen W. Morgan

**Staff Present:**

Joseph Wade, Policy Analyst  
Robert H. Rees, Associate General Counsel  
Wendy Bangerter, Legislative Secretary

**Note:** A list of others present, copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Carlene Walker called the meeting to order at 9:23 a.m. She introduced the agenda for the day's meeting.

**MOTION:** Rep. Julie Fisher moved to approve the minutes of the May 23, 2007 meeting. The motion passed unanimously. Sen. Stephenson, Rep. Dougall, Rep. Tilton, and Rep. Hughes were absent for the vote.

**2. School Building Finance**

**A. Background on School Building Finance**

Mr. Phillip V. Dean, Policy Analyst, explained how funds are generated for schools in Utah using property taxes and income taxes. He distributed and reviewed "School Facility Funding." He also distributed and reviewed "2005 School District Property Tax Levy Rates" and used the example of the tax on a \$250,000 home that is for used by the school districts by county.

Mr. Larry Newton, School Finance Director, State Office of Education, answered questions and clarified points regarding the basic school program that funds everything from the Weighted Pupil Unit Fund and those needs that are funded from the Maintenance and Operation Fund. He also noted that the equalization program in existence currently is called the Capital Foundation and Enrollment Program. It has not been increased financially from the Legislature as was envisioned in the beginning so school districts have not joined in as was expected they would. It is based on the ability of school districts to fund their own projects and what effort local boards give to the fund. He explained that about 15 out of 40 school districts are eligible for the funds.

Rep. Tilton clarified that the discussion is focused on equalization of school building (capital outlay), and not the other funding categories.

Mr. Tracey Olsen, Business Administrator, Nebo School District, noted that Nebo School District has the highest tax rate but has one of the lowest enrollment, although they are soon to experience higher growth.

**B. Statewide vs. Countywide Equalization Proposals**

Mr. Dean introduced the issue of tax equalization for capital expenditures for school districts.

Chair Walker reviewed questions from the packet for the task force members to contemplate.

Sen. Stephenson distributed a working model of a statewide school facility funding equalization plan as well as "Equalization Option - Statewide." Assisted by Mr. Dean, he explained his statewide proposal.

Mr. Dean explained the language of the proposed legislation, "School Facility Funding Equalization."

Mr. Newton addressed a concern with the language of the bill as it erodes the basic levy.

Mr. Brian Allen, explained the countywide proposal. He said it is designed to meet the immediate need as opposed to the eventual need for a statewide solution. He emphasized that the capital outlay of the property tax only is being considered in his proposal to put a cap on the amount of taxes being collected for capital outlay, equalize that money across the counties, and allow local authority to determine where it is spent. He said that the distribution of the money would be tied to enrollment growth.

The Task Force asked Mr. Allen to provide numbers showing the impact of his proposal. They expressed the desire to have the money follow the student and the need to specify what dollars would be used specifically for renovation.

**C. Additional Public Comment**

Ms. Janet Roberts, Business Administrator for Salt Lake School District, expressed concern that with the countywide proposal, the tax burden would be on the taxpayers to fund for other districts.

Ms. Patty Murphy, Park City School District, stated that Park City has the benefit of taxpayers from out of state in the form of second homeowners. Her concern is about the distribution of funds for school districts that have difficulty funding new buildings. Small schools in a rural district are at a disadvantage to other districts.

Ms. Angela Davis, resident of Riverton City, asked how the east and west sides of Salt Lake Valley will be affected financially.

Chair Walker asked that numbers showing the impact of the Granite School District split and the Jordan School District split be presented at the next meeting.

Ms. Leona Winger, South Jordan City Council, cautioned the Task Force to not differentiate between where a child lives and their entitlement to equal education. She reminded them of the governor's efforts to increase fortune 100 and 500 companies. She also noted the success where school districts and



communities combine and share facilities. She noted the existence of a growing senior population that cannot sustain their homes with a growing taxation. South Jordan is looking at decreasing that for seniors.

### **3. Break for Lunch**

The task force recessed for lunch at 12:15 p.m. and resumed at 1:15 p.m.

### **4. Forms of Municipal Government**

#### **A. Proposal from the Utah League of Cities and Towns**

Mr. Lincoln Shurtz, Utah League of Cities and Towns, reviewed the procedure the League used to bring city mayors together to discuss forms of government. They came up with a proposal which they took to a working group and received their support.

Mr. Gary Crane, Layton City Attorney, distributed and reviewed "Outline of Municipal Forms of Government Ideas" and recommendations that resulted from the meetings. He stated that the recommendation would pressure the mayor and city council to work together and would address many of the conflict issues that have arisen.

#### **B. Additional Public Comment**

Mr. David Hogue, resident of Riverton City, reviewed the initiative process.

Ms. Linda Robertson, Bluffdale resident and sponsor to the referendum process in Bluffdale, spoke in favor of new statutes that would further define municipal leader roles and give the vote to the people. She stated that a referendum is a very cumbersome process for citizens to embark on.

Mr. Al Halbert, citizen of Bluffdale, expressed his feelings regarding Bluffdale's actions toward their city manager. He asked that the authority be given back to the people.

Ms. Claudia Anderson, mayor of Bluffdale, clarified those actions.

Mr. Danny Hammond, Syracuse City Council, commented that he researched the manager by ordinance form of government. He came to the conclusion that every city is different and could benefit from the flexibility to delegate responsibilities as they have people in place that can function in given areas. The council should define the duties of the city leader. He spoke in favor of the League's recommendations.

Ms. Michelle Stallings, resident of Lehi, addressed the fundamental duties of elected officials vs. a city employee. She recommended making the manager by ordinance an option available to the vote of the people. She feels that if a city council wants to make a change in form of government, they need to educate their people and put it to their vote.

Mr. DeLynn Summers, resident of Bluffdale City, spoke in favor of vote of the people, no matter what form.

Mr. Crane stated that because we are a representative form of government, the powers of the city council and mayor are broad and shared. He noted how many cities changed their form of government peacefully without a vote of the people. The League's recommendations focus on those situations where a nonpeaceful situation exists creating a peaceful solution. He stated that manager by ordinance form of government is beneficial when a city realized growth and has many decisions to make. The mayor and manager, and city council can work together to divest responsibilities.

The task force members discussed their varied opinions regarding what constitutes a change of form of government and what issues to add to the draft legislation.

Mr. Rees stated that there is a lack of clarity and it might help to define the default expectations and responsibilities of certain offices in each form of government. He suggested that if a city goes beyond the flexibility level, then the changes should go to the vote of the people.

Chair Walker stated that she hates to see major changes made when for the most part the system is working throughout the state. She asked staff to use S.B. 41 as a beginning and integrate the League's recommendations before the task force meets again.

## **5. Other Items / Adjourn**

Future meetings were scheduled for Monday, July 23, 2007 for a full day and August 22, 2007.

**MOTION:** Rep. Tilton moved to adjourn the meeting. The motion passed unanimously. Sen. McCoy, Rep. Dougall, Rep. Hughes, and Rep. Morgan were absent for the vote.

Chair Walker adjourned the meeting at 3:45 p.m.

**Adopted Guiding Principles**  
for the Local Issues Task Force  
Relating to its Study of the Forms of Municipal Government

Principles adopted by the Task Force:

1. Respect for voters -- Voters should have a say in any change in the form of municipal government.
4. Clarity -- The powers, duties, functions, and roles of municipal officials in the different forms of government should be clearly delineated in statute. Statutory provisions relating to forms of municipal government should be well organized and structured in statute to avoid duplication, confusion, and ambiguity.
2. Distribution of powers -- There should be appropriate and effective checks and balances within the municipal government structure to prevent the abuse of power and to promote effective government.
5. Flexibility -- Cities and towns should have appropriate flexibility in operating under a form a government that best suits their needs and circumstances.
6. Efficiency -- The forms of government under which cities and towns operate should promote the efficient operation of government.
7. Role and status of cities and towns -- Provisions relating to municipal government should reflect the role and status of cities and towns as political subdivisions of the state, subject to legislative policy directives.

Principle NOT adopted by Task Force:

3. Separation of powers -- Legislative and executive powers should be separated in municipal government.

During the May 23, 2007 meeting the following motion was approved:

**SUBSTITUTE MOTION:** Rep. Dougall made a substitute motion to prioritize No. 1, Respect for voters, as the first guiding principle and No. 4, Clarity, as the second guiding principle and to adopt the other guiding principles except for No. 3, Separation of Powers. The motion passed unanimously.

## Outline of an Option for Clarifying Statutory Provisions Relating to the Forms of Municipal Government

Prepared by the Office of Legislative Research and General Counsel  
for the Local Issues Task Force  
July 18, 2007

	Form of Municipal Government in Which Executive and Legislative Functions Are Separated	Forms of Municipal Government in Which Executive and Legislative Functions Are Combined	
Form of Government	Council-mayor (strong mayor) form	5-member council form (with voting mayor)	6-member council form (with non-voting mayor)
	A municipality operating under any of these forms of government may change to another form by following a process which includes a requirement for voter approval.		
City/town council	5- or 7-member council	5-member council (one of which is the mayor)	6-member council (one of which is the mayor)
	exercises legislative functions	exercises legislative and executive functions and whatever administrative functions as are provided by ordinance	exercises legislative and executive functions and whatever administrative functions as are provided by ordinance
	selects one of its members as chair	the mayor acts as chair of the council	the mayor acts as chair of the council
	may appoint administrative assistants to the council as a whole or to individual members and define their duties -- appointees serve at the pleasure of and report to the council or individual members, as prescribed by ordinance	may appoint city manager and other officers and administrators and define their duties -- appointees serve at the pleasure of and report to the council, unless otherwise prescribed by ordinance <b>Limitation:</b> The council may not delegate to a city manager: (1) the mayor's legislative or judicial powers, position as chair of the council, or any ex officio position; or (2) the council's legislative powers	may appoint city manager and other officers and administrators and define their duties -- appointees serve at the pleasure of and report to council, unless otherwise prescribed by ordinance <b>Limitation:</b> The council may not delegate to a city manager: (1) the mayor's legislative or judicial powers, position as chair of the council, or any ex officio position; or (2) the council's legislative powers

	<b>Form of Municipal Government in Which Executive and Legislative Functions Are Separated</b>	<b>Forms of Municipal Government in Which Executive and Legislative Functions Are Combined</b>	
Mayor	is the chief executive and administrative officer of the municipality	exercises ceremonial functions and whatever administrative functions as are provided by ordinance	exercises ceremonial functions and whatever administrative functions as are provided by ordinance
	may, with advice and consent of the council, appoint city manager supervises all administrative departments	may, with advice and consent of council, appoint administrators or assistants who serve at the pleasure of and report to the mayor	may, with advice and consent of council, appoint administrators or assistants who serve at the pleasure of and report to the mayor
		is chair of city council; presides at city council meetings	is chair of city council; presides at city council meetings
	does not vote with the council	votes as a member of the council	votes only in the case of a tie or for the appointment of a city manager
	may veto ordinances, tax levies, or appropriations passed by council	no veto authority	no veto authority

**MUNICIPAL AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christopher N. Herrod**

Senate Sponsor: \_\_\_\_\_

---

**LONG TITLE****General Description:**

This bill modifies provisions of the Utah Municipal Code related to the appointment and removal of certain officials.

**Highlighted Provisions:**

This bill:

- requires the advice and consent of the municipal council or legislative body with respect to the removal of department heads and officers and employees, commissions, boards, and committees, and for planning commission members.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

**10-3-1219**, as last amended by Chapter 156, Laws of Utah 2004

**10-9a-301**, as renumbered and amended by Chapter 254, Laws of Utah 2005

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-3-1219** is amended to read:

**10-3-1219. Council-mayor form -- Powers and duties of mayor.**



28 (1) In the optional form of government known as the council-mayor form, the mayor  
29 shall be a registered voter of the municipality from which he is elected and shall be elected for  
30 a term of four years.

31 (2) The mayor shall be the chief executive and administrative officer of the  
32 municipality and shall:

33 (a) enforce the laws and ordinances of the municipality;

34 (b) execute the policies adopted by the council;

35 (c) appoint and remove administrative assistants, including a chief administrative  
36 officer; ~~and~~

37 (d) with the advice and consent of the council, appoint department heads and all  
38 statutory officers, commissions, boards, and committees of the municipality, except as may  
39 otherwise be specifically limited by law;

40 (e) with the advice and consent of the council, remove department heads and officers  
41 and employees, commissions, boards, and committees;

42 (f) exercise control of all departments, divisions, and bureaus within the municipal  
43 government;

44 (g) attend all meetings of the council with the right to take part in all discussions and  
45 the responsibility to inform the council of the condition and needs of the municipality and  
46 make recommendations and freely give advice to the council, except that the mayor may not  
47 vote in council meetings;

48 (h) appoint a budget officer to serve in place of the mayor for the purpose of  
49 conforming with the requirements of the Uniform Municipal Fiscal Procedures Act and in all  
50 other respects fulfill the requirements of that act;

51 (i) appoint, with the advice and consent of the council, a qualified person to each of the  
52 offices in cities of recorder, treasurer, engineer, and attorney and, in towns, town treasurer and  
53 clerk;

54 (j) create any other offices that are considered necessary for the good government of  
55 the municipality, and make appointments to them;

56 (k) regulate and prescribe the powers and duties of all other officers of the  
57 municipality, within the general provisions of law and ordinance;

58 (l) furnish the municipal council with a report periodically, as determined by

ordinance, that is available for public inspection and sets forth:

- (i) the amounts of all budget appropriations;
- (ii) the total disbursements to date from these appropriations;
- (iii) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and
- (iv) the percentage of the appropriations encumbered to date;
- (m) execute agreements within certified budget appropriations on behalf of the municipality, or delegate, by written executive order, the power to execute such agreements to executive officials, subject to the procedure described in Section 10-6-138; and
- (n) perform other duties as may be prescribed by this part or may be required by ordinance not inconsistent with this part.

Section 2. Section **10-9a-301** is amended to read:

**10-9a-301. Ordinance establishing planning commission required -- Ordinance requirements -- Compensation.**

- (1) (a) Each municipality shall enact an ordinance establishing a planning commission.
- (b) The ordinance shall define:
  - (i) the number and terms of the members and, if the municipality chooses, alternate members;
  - (ii) the mode of appointment and dismissal, requiring each appointment and dismissal to be with the advice and consent of the municipal legislative body;
  - (iii) the procedures for filling vacancies and removal from office;
  - (iv) the authority of the planning commission; and
  - (v) other details relating to the organization and procedures of the planning commission.
- (2) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.



---

**Legislative Review Note**  
**as of 1-29-07 1:03 PM**

**Office of Legislative Research and General Counsel**

---

---

**H.B. 457 - Municipal Amendments**

**Fiscal Note**

2007 General Session

State of Utah

---

---

**State Impact**

Enactment of this bill will not require additional appropriations.

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

---

# Public Education Capital Outlay Act

## Title 53A, Chapter 21

(Text is current through the 2007 General Session)

- 53A-21-101. Title.**
  - 53A-21-102. Capital Outlay Foundation Program -- Enrollment Growth Program -- Loan Program.**
  - 53A-21-103. Qualifications for participation in the foundation program -- Distribution of monies -- Distribution formulas.**
  - 53A-21-103.5. Qualifications for participation in the Enrollment Growth Program -- State Board of Education rules -- Distribution formula.**
  - 53A-21-104. School Building Revolving Account -- Access to the account.**
  - 53A-21-105. State contribution to capital outlay programs.**
- 

### **53A-21-101. Title.**

This chapter is known as the "Public Education Capital Outlay Act."

### **53A-21-102. Capital Outlay Foundation Program -- Enrollment Growth Program -- Loan Program.**

- (1) The Capital Outlay Foundation Program and the Enrollment Growth Program are established to provide revenues to school districts for the purposes of capital outlay bonding, construction, and renovation.
- (2) The Capital Outlay Loan Program is established to provide:
  - (a) short-term help to school districts to meet district needs for school building construction and renovation; and
  - (b) assistance to charter schools to meet school building construction and renovation needs.
- (3) School districts shall use the monies provided to them under the programs established by this section solely for school district capital outlay and debt service purposes.

### **53A-21-103. Qualifications for participation in the foundation program -- Distribution of monies -- Distribution formulas.**

- (1) In order for a school district to qualify for monies under the Capital Outlay Foundation Program established in Subsection 53A-21-102(1), a local school board must levy a tax rate of up to .0024 per dollar of taxable value for capital outlay and debt service.
- (2) The State Board of Education shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that:

- (a) allow a school district levying less than the full .0024 tax rate to receive proportional funding under the foundation program based upon the percentage of the .0024 tax rate levied by the district; and
  - (b) maintain a school district's funding under the Capital Outlay Foundation Program for up to two years if the school district's funding would otherwise be reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.
- (3) The State Board of Education shall distribute monies in the Capital Outlay Foundation Program in accordance with a formula developed by the state superintendent of public instruction which guarantees that a tax rate of up to .0024 per dollar of taxable value for capital outlay and debt service yields a minimum amount per pupil in average daily membership.

**53A-21-103.5. Qualifications for participation in the Enrollment Growth Program -- State Board of Education rules -- Distribution formula.**

- (1) As used in this section:
- (a) "ADM" means average daily membership.
  - (b) "Derived valuation" means total school district property tax current collections from April 1 through the following March 31, divided by the tax rates for the same year.
  - (c) "Yield per ADM" means the product of the derived valuation multiplied by .0024, divided by average daily membership.
- (2) (a) The State Board of Education shall distribute monies in the Enrollment Growth Program to qualifying school districts whose:
- (i) average net enrollment for the prior three years is a net increase in enrollment; and
  - (ii) yield per ADM is less than two times the prior year's average yield per ADM for Utah school districts.
- (b) A school district that meets the criteria of Subsection (2)(a) shall receive Enrollment Growth Program monies in the same proportion that the district's three-year average net enrollment bears to the total three-year net enrollment of all the districts that meet the criteria of Subsection (2)(a).
- (c) The State Board of Education shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to administer this section.

**53A-21-104. School Building Revolving Account -- Access to the account.**

- (1) There is created a nonlapsing "School Building Revolving Account" administered within the Uniform School Fund by the state superintendent of public instruction in accordance

with rules adopted by the State Board of Education.

- (2) Monies received by a school district from the School Building Revolving Account may not exceed the district's bonding limit minus its outstanding bonds.
- (3) In order to receive monies from the account, a school district must do the following:
  - (a) levy a tax of at least .0024 for capital outlay and debt service;
  - (b) contract with the state superintendent of public instruction to repay the monies, with interest at a rate established by the state superintendent, within five years of their receipt, using future state building monies or local revenues or both;
  - (c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan repayments, unless the state superintendent of public instruction alters the payment schedule to improve a hardship situation; and
  - (d) meet any other condition established by the State Board of Education pertinent to the loan.
- (4)
  - (a) The state superintendent shall establish a committee, including representatives from state and local education entities, to:
    - (i) review requests by school districts for loans under this section; and
    - (ii) make recommendations regarding approval or disapproval of the loan applications to the state superintendent.
  - (b) If the committee recommends approval of a loan application under Subsection (4)(a)(ii), the committee's recommendation shall include:
    - (i) the recommended amount of the loan;
    - (ii) the payback schedule; and
    - (iii) the interest rate to be charged.
- (5)
  - (a) There is established within the School Building Revolving Account the Charter School Building Subaccount administered by the State Board of Education, in consultation with the State Charter School Board, in accordance with rules adopted by the State Board of Education.
  - (b) The Charter School Building Subaccount shall consist of:
    - (i) money appropriated to the subaccount by the Legislature;
    - (ii) money received from the repayment of loans made from the subaccount; and
    - (iii) interest earned on monies in the subaccount.
  - (c) The state superintendent of public instruction shall make loans to charter schools from the Charter School Building Subaccount to pay for the costs of:
    - (i) planning expenses;
    - (ii) constructing or renovating charter school buildings;
    - (iii) equipment and supplies; or

- (iv) other start-up or expansion expenses.
- (d) Loans to new charter schools or charter schools with urgent facility needs may be given priority.
- (6) (a) The State Board of Education shall establish a committee, which shall include individuals who have expertise or experience in finance, real estate, and charter school administration, one of whom shall be nominated by the governor to:
  - (i) review requests by charter schools for loans under this section; and
  - (ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.
- (b) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:
  - (i) the recommended amount of the loan;
  - (ii) the payback schedule; and
  - (iii) the interest rate to be charged.
- (c) The committee members may not:
  - (i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or
  - (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.
- (7) The State Board of Education, in consultation with the State Charter School Board, shall approve all loans to charter schools under this section.
- (8) Loans to charter schools under this section may not exceed a term of five years.
- (9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any year.

**53A-21-105. State contribution to capital outlay programs.**

- (1) As an ongoing appropriation subject to future budget constraints, there is appropriated from the Uniform School Fund for fiscal year 2007-08, \$27,288,900 to the State Board of Education for the capital outlay programs created in Section 53A-21-102.
- (2) Of the monies appropriated in Subsection (1), the State Board of Education shall distribute:
  - (a) \$24,358,000 in accordance with the Capital Outlay Foundation Program described in Section 53A-21-103; and
  - (b) \$2,930,900 in accordance with the Enrollment Growth Program described in Section 53A-21-103.5.



[Foundation & Enrollment Growth](#)

[Bonded Indebtedness](#)

[QZAB](#)

Jane Z. Zhang  
Education Specialist  
Facilities and Risk  
Management  
801-538-7669  
801-538-7729 (fax)



## Foundation and Enrollment Growth

The distributions of the Capital Outlay Foundation and Enrollment Growth Program Funding are available at the following links:

- [FY07 Capital Outlay Foundation and Enrollment Growth Program - PDF](#)
- [FY06 Capital Outlay Foundation and Enrollment Growth Program - PDF](#)

### Capital Outlay Foundation Program

A school district may receive state school building funds under the capital outlay foundation program established in UCA 53A-21-102(1) if the amount raised by levying a tax rate of 0.002400 does not generate revenues above the foundation level established per average daily membership (ADM) when the legislative appropriation is entered into the formula.

To qualify to receive 100 percent of the capital outlay foundation funds available to a school district, a school district shall levy a property tax rate of at least 0.002400 designated specifically for capital outlay and debt service.

School districts levying less than the full 0.002400 tax rate for capital outlay and debt service shall receive proportional funding under the capital foundation program based upon the percentage of the 0.002400 tax rate levied by the school district.

The amount of capital foundation funds to which a school district would otherwise be entitled under the Capital Outlay Foundation program may not be reduced as a consequence of changes in the certified tax rate under UCA 59-2-924 due to changes in property valuation for a period of two tax years from the effective date of any such change in the certified tax rate.

The Utah State Office of Education (USOE) shall support the foundation program to assist the qualifying school district in reaching the foundation level.

### Enrollment Growth Program

A school district may receive enrollment growth program funds under UCA 53A-21-103.5 for the following purposes:

- to fund general obligation bond principal and interest costs
- to fund construction
- to fund facilities renovation
- to fund other capital project needs as approved.

The Utah State Board of Education shall distribute monies in the Enrollment Growth

Program to qualifying school districts whose average net enrollment for the prior three years is a net increase in enrollment and the yield per ADM is less than two times the prior year's average yield per ADM for Utah school districts.

A school district that meets the above criteria shall receive Enrollment Growth Program monies in the same proportion that the district's three-year average net enrollment bears to the total three-year net enrollment of all the districts that meet the above criteria.

Distributions for the Capital Outlay Foundation and Enrollment Growth Program from FY1996-1997 through FY2004-05 can be found in the following files:

- [FY1996-97](#)
- [FY1997-98](#)
- [FY1998-99](#)
- [FY1999-00](#)
- [FY2000-01](#)
- [FY2001-02](#)
- [FY2002-03](#)
- [FY2003-04](#)
- [FY2004-05](#)

For questions regarding the information on this page please contact:

**[Cathy Dudley](#)**

Property Tax Specialist  
801-538-7667  
801-538-7729 (fax)



Capital Outlay Foundation and Enrollment Growth Program--FY 2006-07														
FINAL														
	Prior Year	Current Year						Percent of	Yield per		Total	Total Foundation Allocation =	\$24,358,000	
	Derived Valuations	Capital Outlay	Current					Capital Outlay,	ADM X C9		Capital	Total Enrollment Growth Allocation	\$12,930,900	
	(Prior Year Current	Debt and	Year Tax	Collection	Local Tax	Prior Year	Yield per	Debt and Voted	\$550.603597		Foundation	Total Capital Appropriation=	\$37,288,900	
	Collections Divided by	Voted Capital	Rate up to	Rate	Rate	ADM's	ADM	Capital Levy to	Foundation	Enrollment	and			
District	Prior Year Tax Rates)	Total Levies	0.002400	(5 Yr Avg	Yield	(FY 2005-06)	Local	0.002400	Guarantee	Growth	Enrollment	Total Foundation Appropriation=	\$24,358,000	
	(FY 2005-06)	(FY 2006-07)	Levy	w/o HI/Lo)	@ 0.002400	(FY 2005-06)	Generation	Tax Rate	on 0.0024 Levy	Program	Growth	Actual Allocation to Foundation =	\$24,358,000	
					(C2x0.2400xC5)		(C6/C7)	(C4/0.002400)	\$24,358,000		(C10+C11)	Unallocated =	\$0	
1	2	3	4	5	6	7	8	9	10	11	12			
1 Alpine	\$9,894,937,763	0.003009	0.002400	100.00%	\$23,747,851	54,342	437.01	100.0%	\$6,172,903	2,707,730	\$8,880,633			
2 Beaver	479,615,132	0.003368	0.002400	100.00%	1,151,076	1,529	752.83	100.0%	0	50,431	50,431			
3 Box Elder	2,373,171,096	0.002400	0.002400	100.00%	5,695,611	10,527	541.05	100.0%	100,571	85,344	185,915			
4 Cache	2,408,705,530	0.002400	0.002400	100.00%	5,780,893	13,335	433.51	100.0%	1,561,443	222,411	1,783,854			
5 Carbon	1,892,943,490	0.002147	0.002147	100.00%	4,543,064	3,433	1,323.35	89.5%	0	0	0			
6 Daggett	207,426,302	0.001247	0.001247	100.00%	497,823	155	3,220.18	52.0%	0	0	0			
7 Davis	11,485,573,399	0.002695	0.002400	100.00%	27,565,376	61,634	447.24	100.0%	6,370,712	1,578,863	7,949,575			
8 Duchesne	884,562,974	0.003038	0.002400	100.00%	2,122,951	3,913	542.54	100.0%	31,553	43,965	75,518			
9 Emery	1,422,896,208	0.001062	0.001062	100.00%	3,414,951	2,298	1,486.05	44.3%	0	0	0			
10 Garfield	391,564,394	0.004222	0.002400	100.00%	939,755	932	1,008.32	100.0%	0	0	0			
11 Grand	644,422,981	0.002403	0.002400	100.00%	1,546,615	1,455	1,063.16	100.0%	0	14,224	14,224			
12 Granite	18,407,961,841	0.002028	0.002028	100.00%	44,179,108	67,545	654.07	84.5%	0	0	0			
13 Iron	2,233,364,405	0.003275	0.002400	100.00%	5,360,075	8,204	653.35	100.0%	0	588,356	588,356			
14 Jordan	20,312,886,655	0.003720	0.002400	100.00%	48,750,928	77,505	629.00	100.0%	0	2,168,512	2,168,512			
15 Juab	570,833,242	0.004136	0.002400	100.00%	1,370,000	1,997	686.03	100.0%	0	71,120	71,120			
16 Kane	782,151,364	0.001203	0.001203	100.00%	1,877,163	1,191	1,576.12	50.1%	0	0	0			
17 Millard	1,910,302,560	0.002239	0.002239	100.00%	4,584,726	2,923	1,568.37	93.3%	0	0	0			
18 Morgan	615,215,450	0.002286	0.002286	100.00%	1,476,517	2,035	725.56	95.3%	0	69,827	69,827			
19 Nebo	4,070,309,356	0.005050	0.002400	100.00%	9,768,742	24,825	393.50	100.0%	3,900,097	991,800	4,891,897			
20 No. Sanpete	469,215,027	0.002297	0.002400	100.00%	1,126,116	2,287	492.40	100.0%	133,112	0	133,112			
21 No. Summit	535,293,367	0.003208	0.002400	100.00%	1,284,704	978	1,314.13	100.0%	0	0	0			
22 Park City	6,391,797,597	0.001868	0.001868	99.49%	15,262,079	4,290	3,557.47	77.8%	0	0	0			
23 Piute	46,634,940	0.002875	0.002400	100.00%	111,924	296	378.12	100.0%	51,055	1,293	52,348			
24 Rich	352,945,121	0.001813	0.001813	100.00%	847,068	419	2,021.64	75.5%	0	0	0			
25 San Juan	477,998,094	0.005061	0.002400	99.75%	1,144,327	2,892	395.69	100.0%	448,010	0	448,010			
26 Sevier	888,821,404	0.003312	0.002400	100.00%	2,133,171	4,286	497.71	100.0%	226,702	36,207	262,909			
27 So. Sanpete	398,945,953	0.004068	0.002400	100.00%	957,470	2,590	369.68	100.0%	468,592	59,482	528,074			
28 So. Summit	1,012,170,763	0.002280	0.002280	100.00%	2,429,210	1,335	1,819.63	95.0%	0	0	0			
29 Tintic	25,913,005	0.004776	0.002400	97.10%	60,388	271	222.83	100.0%	88,827	5,172	93,999			
30 Tooele	1,951,746,853	0.004530	0.002400	100.00%	4,684,192	11,771	397.94	100.0%	1,797,003	1,081,023	2,878,026			
31 Uintah	2,363,545,409	0.003130	0.002400	100.00%	5,672,509	5,482	1,034.75	100.0%	0	96,982	96,982			
32 Wasatch	1,923,757,965	0.002320	0.002400	100.00%	4,617,019	4,331	1,066.04	100.0%	0	203,015	203,015			
33 Washington	8,106,944,055	0.002766	0.002400	100.00%	19,456,666	23,078	843.08	100.0%	0	2,181,443	2,181,443			
34 Wayne	189,313,286	0.002125	0.002125	100.00%	454,352	519	875.44	88.5%	0	6,465	6,465			
35 Weber	5,595,422,748	0.002390	0.002400	100.00%	13,429,015	28,539	470.55	100.0%	2,284,650	531,460	2,816,110			
36 Salt Lake	12,984,449,836	0.001904	0.001904	100.00%	31,162,680	23,321	1,336.25	79.3%	0	0	0			
37 Ogden	2,569,763,950	0.003765	0.002400	98.35%	6,065,671	12,329	491.98	100.0%	722,770	0	722,770			
38 Provo	3,762,330,340	0.002228	0.002400	100.00%	9,029,593	13,160	686.14	100.0%	0	135,775	135,775			
39 Logan	1,536,635,131	0.002749	0.002400	100.00%	3,687,924	5,698	647.23	100.0%	0	0	0			
40 Murray	2,523,144,477	0.001764	0.001764	100.00%	6,055,547	6,375	949.89	73.5%	0	0	0			
Unallocated									0	0	0			
Total/Average	\$135,095,633,463	0.002829		100.00%	\$324,044,850	494,024	655.93	100.0%	\$24,358,000	\$12,930,900	37,288,900			
							950.25							

ENROLLMENT GROWTH--Capital Facilities Aid Based on Prior Three Year Average Net Enrollment Growth--FY 2006-07															
FINAL															
														\$7,930,900	
								Actual Three Year Average Enrollment Change		Actual Three-Year Average Enrollment Growth	Yield per ADM Local Generation FY04-05	Average Enrollment Growth if Yield Per ADM is less than 2 X the Average of: 655.93	Percent Share Column 13 is to Total	Enrollment Growth Share \$12,930,900	
District	1-Oct-03 Enrollment	1-Oct-04 Enrollment	Net Change	1-Oct-05 Enrollment	Net Change	1-Oct-06 Enrollment	Net Change		10	11	12	13	14	15	
1	2	3	4	5	6	7	8	9							
1 Alpine	51,118	52,825	1,707	54,773	1,948	56,124	1,351	1,669		1,669	437.01	1,669.00	20.94%	2,707,730.46	
2 Beaver	1,472	1,508	36	1,536	28	1,564	28	31		31	752.83	31.00	0.39%	50,430.51	
3 Box Elder	10,529	10,561	32	10,625	64	10,689	64	53		53	541.05	53.00	0.66%	85,343.94	
4 Cache	13,315	13,388	73	13,428	40	13,726	298	137		137	433.51	137.00	1.72%	222,411.48	
5 Carbon	3,622	3,488	(134)	3,389	(99)	3,495	106	(42)		0	1,323.35	0.00	0.00%	0.00	
6 Daggett	132	136	4	156	20	150	(6)	6		6	3,220.18	0.00	0.00%	0.00	
7 Davis	60,025	60,606	581	62,456	1,850	62,943	487	973		973	447.24	973.00	12.21%	1,578,862.89	
8 Duchesne	3,900	3,894	(6)	3,993	99	3,982	(11)	27		27	542.54	27.00	0.34%	43,965.06	
9 Emery	2,434	2,366	(68)	2,335	(31)	2,320	(15)	(38)		0	1,486.05	0.00	0.00%	0.00	
10 Garfield	969	947	(22)	940	(7)	938	(2)	(10)		0	1,008.32	0.00	0.00%	0.00	
11 Grand	1,474	1,418	(56)	1,470	52	1,500	30	9		9	1,063.16	9.00	0.11%	14,223.99	
12 Granite	69,072	68,568	(504)	69,048	480	68,887	(161)	(62)		0	654.07	0.00	0.00%	0.00	
13 Iron	7,443	7,788	345	8,230	442	8,533	303	363		363	653.35	363.00	4.55%	588,355.95	
14 Jordan	74,761	75,716	955	77,369	1,653	78,773	1,404	1,337		1,337	629.00	1,337.00	16.77%	2,168,511.93	
15 Juab	1,939	1,963	24	1,992	29	2,071	79	44		44	686.03	44.00	0.55%	71,119.95	
16 Kane	1,200	1,196	(4)	1,194	(2)	1,188	(6)	(4)		0	1,576.12	0.00	0.00%	0.00	
17 Millard	3,083	2,957	(126)	2,952	(5)	2,897	(55)	(62)		0	1,568.37	0.00	0.00%	0.00	
18 Morgan	1,955	1,967	12	2,029	62	2,083	54	43		43	725.56	43.00	0.54%	69,826.86	
19 Nebo	23,900	24,887	987	24,742	(145)	25,734	992	611		611	393.50	611.00	7.67%	991,800.03	
20 No. Sanpete	2,370	2,313	(57)	2,321	8	2,334	13	(12)		0	492.40	0.00	0.00%	0.00	
21 No. Summit	969	986	17	982	(4)	981	(1)	4		4	1,314.13	0.00	0.00%	0.00	
22 Park City	4,059	4,212	153	4,367	155	4,336	(31)	92		92	3,557.47	0.00	0.00%	0.00	
23 Piute	307	345	38	302	(43)	310	8	1		1	378.12	1.00	0.01%	1,293.09	
24 Rich	454	429	(25)	416	(13)	436	20	(6)		0	2,021.64	0.00	0.00%	0.00	
25 San Juan	2,979	2,957	(22)	2,908	(49)	2,879	(29)	(33)		0	395.69	0.00	0.00%	0.00	
26 Sevier	4,316	4,305	(11)	4,288	(17)	4,382	94	22		22	497.71	22.00	0.28%	36,206.52	
27 So. Sanpete	2,772	2,739	(33)	2,764	25	2,884	120	37		37	369.68	37.00	0.46%	59,482.14	
28 So. Summit	1,312	1,322	10	1,344	22	1,362	18	17		17	1,819.63	0.00	0.00%	0.00	
29 Tintic	250	262	12	274	12	260	(14)	3		3	222.83	3.00	0.04%	5,172.36	
30 Tooele	10,508	11,039	531	11,793	754	12,507	714	666		666	397.94	666.00	8.36%	1,081,023.24	
31 Uintah	5,607	5,642	35	5,539	(103)	5,787	248	60		60	1,034.75	60.00	0.75%	96,981.75	
32 Wasatch	4,022	4,136	114	4,303	167	4,398	95	125		125	1,066.04	125.00	1.57%	203,015.13	
33 Washington	20,317	21,584	1,267	23,189	1,605	24,352	1,163	1,345		1,345	843.08	1,345.00	16.87%	2,181,442.83	
34 Wayne	518	517	(1)	514	(3)	531	17	4		4	875.44	4.00	0.05%	6,465.45	
35 Weber	28,196	28,527	331	28,774	247	29,180	406	328		328	470.55	328.00	4.11%	531,459.99	
36 Salt Lake	23,966	23,595	(371)	23,728	133	23,922	194	(15)		0	1,336.25	0.00	0.00%	0.00	
37 Ogden	12,963	12,684	(279)	12,542	(142)	12,488	(54)	(158)		0	491.98	0.00	0.00%	0.00	
38 Provo	13,103	13,359	256	13,273	(86)	13,351	78	83		83	686.14	83.00	1.05%	135,774.45	
39 Logan	5,872	5,821	(51)	5,737	(84)	5,820	83	(17)		0	647.23	0.00	0.00%	0.00	
40 Murray	6,482	6,492	10	6,469	(23)	6,352	(117)	(43)		0	949.89	0.00	0.00%	0.00	
Unallocated	483,685	489,445	5,760	498,484	9,039	506,449	7,965	7,588		8,090		7,971	100.00%	12,930,900.00	
Total/Average	\$967,370								0	8,090	\$950.25			0.00	
53A-21-103 and 103.5 and Administrative rule R277-451															

# Funding of School Capital Outlay Costs

## Potential Policy Considerations

---

Legislators may wish to consider the following policy questions related to school facilities funding:

### Revenue Source

- Should the revenue source be state or local? Income tax or property tax?
- Should school facility property tax revenues be equalized?
  - If so, which property tax levies should be equalized? Should existing levies be changed? Should a new levy be created?
  - If so, should equalization occur on a statewide basis? On a countywide basis?
  - If so, should revenues be fully or partially equalized?
    - Should a uniform levy be established?
    - Should some discretionary local property tax authority remain?
    - Should a minimum levy be required?
- Should existing revenues or new revenues be used?

### Allocation of Revenues

- Should existing allocation methodologies and programs be used? Or should new methodologies be developed?
- Should funds be allocated by formula or by a board designated to allocate funds?
- Should allocation criteria include:
  - Enrollment growth?
  - Total enrollment?
  - Number of students above school capacity under traditional school schedule?
  - Use of efficiency model for school schedules?
  - Facilities over a certain age?
  - Property tax wealth per student?
  - Other criteria?